

## **BOARD FOR BRANCH PILOTS FORMAL HEARING MINUTES**

Pursuant to 2.2.4019, 2.2.4020 and 54.1-905 of the *Code of Virginia*, the Virginia Board for Branch Pilots met for a formal hearing on Thursday, April 29, 2010, at the Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia, with the following members present:

Captain Robert H. Callis, III  
Bruce R. Cherry  
Captain Milton B. Edmunds  
Thomas P. Host, III  
William M. Martin, III  
Captain John A. Morgan, Jr.  
Meade G. Stone, Jr.

Captain J. William Cofer recused himself from the proceedings.

Staff present for the meeting were:

Jay W. DeBoer, Director  
Mark N. Courtney, Deputy Director of Licensing and Regulation  
Kathleen (Kate) R. Nosbisch, Executive Director  
Nick A. Christner, Deputy Director of Compliance and Investigation  
Ann-Marie Brigil, Hearing Officer  
Justin Garofalo, Board Administrator

Cynthia H. Norwood, counsel to the Board, was present from the Office of the Attorney General; Charles A. Quagliato, Esq., Office of the Attorney General, represented the Board for Branch Pilots and the Department of Professional and Occupational Regulation; and Robert W. McFarland, Esq., was present as counsel for Walter Hugh McCrory.

The matter before the Board was file number 2010-04022, the application of Walter Hugh McCrory, seeking the issuance of a Branch Pilot license. Mr. McCrory voluntarily surrendered his previous license on July 28, 2008, following a positive random drug test which indicated the presence of cocaine metabolics.

**Formal Hearing for  
File Number 2010-  
04022, Walter  
Hugh McCrory**

Mr. Cherry, President, convened the hearing at 11:03 a.m. and stated the procedures to be followed. Counsel concurred. Mr. McFarland and Mr. Quagliato offered opening statements.

Mr. McFarland called as his first witness Walter Hugh McCrory, who after being duly sworn in, was examined by Mr. McFarland and cross-examined by Mr. Quagliato.

The Board recessed from 11:39 a.m. until 11:46 a.m.

**Recess**

Following Mr. McCrory's testimony, the following witnesses were called

by Mr. McFarland:

Dr. Michael Bohan, Addiction Specialist, Meridian Psychotherapy;  
Ms. Karen Johnson, Substance Abuse Professional, Bon Secours; and  
Dr. William Cooke, Professor of Pharmacology,  
Eastern Virginia Medical School.

After being duly sworn in, each witness was examined by Mr. McFarland and cross-examined by Mr. Quagliato.

The Board recessed from 1:11p.m. until 1:29 p.m.

**Recess**

Upon completion of McFarland's evidence, the following witnesses were called by Mr. Quagliato:

Ms. Ellen Carlson, Dispatcher, Virginia Pilot Association;  
Ms. Devon Mandaleris, Dispatcher, Virginia Pilot Association;  
Captain William Counselman, Vice-President, Virginia Pilot Association;  
Captain J. William Cofer, President, Virginia Pilot Association; and  
Mr. Nick Christner, DPOR Deputy Director, Compliance & Investigations.

After being duly sworn in, each witness was examined by Mr. Quagliato and cross-examined by Mr. McFarland.

The Board recessed from 2:22 p.m. until 2:30 p.m.

**Recess**

Mr. McFarland and Mr. Quagliato offered closing arguments to the Board.

**Closing Arguments**

At 2:55 p.m., Mr. Stone moved that the formal hearing be recessed and that the Board for Branch Pilots immediately reconvene in a closed session under the *Virginia Freedom of Information Act* for purpose of consultation with legal counsel and/or briefings from staff, a matter lawfully exempted from open meeting requirements under the "consultation with legal counsel" exemption contained in §2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Kate Nosbisch, Jay DeBoer, Mark Courtney and Cindy Norwood. Captain Callis seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

**Closed Session –  
Deliberation for  
File Number 2010-  
04022, Walter  
Hugh McCrory, Jr.**

At 3:20 p.m., the closed session was adjourned and the Board immediately reconvened in open session.

**Open Meeting**

#### **CERTIFICATION OF CLOSED MEETING**

**WHEREAS**, the Board for Branch Pilots has convened a closed meeting on

this date pursuant to an affirmative recorded vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, §2.2-3712 of the *Code of Virginia* requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Board certifies that, to the best of each member's knowledge, (I) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in the closed meeting to which the certification applies, and (II) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

**VOTE:** 7-0

**AYES:** Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

**NAYS:** 0

**ABSENT FROM MEETING:** 1 – Cofer

Mr. Martin moved to adjourn. The hearing was adjourned at 3:25 p.m. Mr. Host seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

**Adjourn**

Mr. McFarland agreed that, solely for the purpose of deliberation, the Board could consider this matter as a disciplinary action.

**Deliberation  
Agreement**

At 3:28 p.m., Mr. Stone moved that the Board for Branch Pilots immediately reconvene in a closed session under the Virginia Freedom of Information Act for purpose of deliberation on disciplinary cases resulting from a formal hearing, a matter lawfully exempted from open meeting requirements under the "consultation with legal counsel" exemption contained in §2.2-3711.A.27 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Kate Nosbisch, Jay DeBoer, Mark Courtney and Cindy Norwood. Captain Morgan seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

**Closed Session –  
Deliberation for  
File Number 2010-  
04022, Walter  
Hugh McCrory, Jr.**

At 4:30 p.m., the closed session was adjourned and the Board immediately reconvened in open session.

**Open Meeting**

#### **CERTIFICATION OF CLOSED MEETING**

**WHEREAS**, the Board for Branch Pilots has convened a closed meeting on this date pursuant to an affirmative recorded vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, §2.2-3712 of the *Code of Virginia* requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Board certifies that, to the best of each member's knowledge, (I) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in the closed meeting to which the certification applies, and (II) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

**VOTE:** 7-0

**AYES:** Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

**NAYS:** 0

**ABSENT FROM MEETING:** 1 – Cofer

Captain Callis moved to recess the meeting until, and reconvene on, June 14, 2010, at 10:30 a.m. Captain Morgan seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

**Adjourn**

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Bruce R. Cherry, President

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Gordon N. Dixon, Secretary